IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

MFA.No. 1013 of 2001()

OP(MV.) 943/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR.
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PETITIONER/ APPELLANT:

M.D.VARGHESE, S/O.DEVASSY,
MADASSERY HOUSE, MOOPPANKAVALA
THURAVOOR.

BY ADV. SRI.JOSE THETTAYIL

RESPONDENTS: RESPONDENTS
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1. **SHAJI PULIYAKKADU, RAYONPURAM P.O.,**
   (VIA) PEPRUMBAVOOR PIN. 683 543.

2. **DENNY , S/O.OUSEPH, KENNEKKADAN HOUSE,**
   THURAVOOR P.O., PIN 688 532.

3. **UNITED INDIA INSURANCE CO. LTED.,**
   JASMINE BUILDINGS,
   PERUMBAVOOR 683 542.

BY ADV. SMT.K.C.BEENA

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1013 OF 2001

Dated 20th June, 2007

JUDGMENT

Koshy,J.

The appellant herein is the petitioner in O.P.(M.V) No.943/94 on the file of the Motor Accidents Claims Tribunal, Perumbavoor. The above petition was filed claiming compensation on account of the serious injuries sustained by the appellant in a motor vehicle accident occurred on 20.12.1993. When the appellant was riding his motor cycle through the Angamaly-Manjapra road, a scooter bearing Reg.No.KLG-82 ridden by the 2nd respondent coming in a rash and negligent manner hit the motor cycle causing the accident and injuring the appellant seriously. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company, but, only Rs.16,700/= as compensation was awarded against a claim of Rs.1,62,100/=. The only dispute is regarding the quantum of compensation.

2. For calculating compensation for loss of income for the period of treatment, Tribunal has taken only Rs.1,000/= as monthly income. Under the second schedule, notional income of a non-earning person is fixed at

Rs.1,250/=. Appellant was aged 40 at the time of the accident. He was a business man. He was maintaining a family. We are of the opinion that fixation of maintenance at Rs.1,000/= is very low. In the circumstances of the case, we fix the monthly income at Rs.1,500/=. He was under treatment for two months. Hence, for loss of earning for the period of treatment, he is entitled to get Rs.1,000/= more. The appellant was hospitalised and was treated as an inpatient in the Medical Trust Hospital, Ernakulam and Little Flower Hospital, Angamaly. He had sustained injuries such as (1)Fracture of nasal bones with nasal bleeding (2) Depressed fracture of mid frontal (sinus region) (3) Multiple injuries (4) Lacerated wound (L) eye brow (5) Lacerated wound (L) side upper lip. Due to the injuries, his ability to work may not have been affected much, but, there is disfiguration of the face and frequent sinus problems. For disability and loss of earning capacity no amount was awarded. But, for disfiguration an amount of Rs.1,000/= was awarded. Considering the nature of injuries, its after effects and disfiguration together, we are of the opinion that he can be awarded an amount of Rs.5,000/=. He claimed bills for Rs.15,000/= towards medical expenses. One is for treatment incurred following the accident. After two months of the accident he had chest pain and admitted in Angamaly hospital. Tribunal did not accept that the same is due to the accident though it is submitted by the claimant that it is one of the after

effects of the accident as due to the disfiguration he was totally upset. But, only actual bills produced were reimbursed for the treatment taken for the first one month. According to the appellant, there were many expenses not covered by bills. It is also stated that accident occurred at Angamaly. He was admitted in a hospital in Ernakulam. But, only Rs.100/= was awarded as transport expenses. For transport expenses and treatment expenses we award Rs.1,000/= more. Thus, appellant will be entitled to Rs.7,000/= more. The above amount should be deposited by the third respondent insurance company, over and above the decreed amount by the Tribunal, with 8% interest from the date of application till its deposit. On deposit, appellant is free to withdraw the same.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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